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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

NO. CIV. S-05-772 LKK/KJM

Plaintiff,

v.

ORDER TO SHOW CAUSE  
RE: DISMISSAL OR SANCTIONS

CONSTANCIO CU, JR., et al.,

Defendants.

\_\_\_\_\_/

A hearing in this case was scheduled for August 1, 2005 at 10:00 a.m., on the Law and Motion Calendar of this court pursuant to defendant's motion to dismiss. Plaintiff's counsel failed to appear for oral argument.

This is not the first time plaintiff has failed to comply with an order of this court. On July 6, 2005, an order to show cause was issued when plaintiff failed to timely submit an opposition to the motion to dismiss. This failure required the court to continue the motion to the August 1, 2005 calendar. No good cause being shown, the court sanctioned plaintiff on July 25, 2005.

1 Four days later, on July 29, 2005, the court issued another  
2 order to show cause, this time directed towards both parties for  
3 failure to timely submit status reports as required by this court's  
4 July 13, 2005 order. The court is in receipt of plaintiff's  
5 response. No good cause being shown, sanctions are appropriate.  
6 Sanctions to the court and payment to defendant's counsel's for  
7 plaintiff's failure to appear at the hearing on August 1, 2005 is  
8 also appropriate.

9 In light of this history and plaintiff's counsel's most recent  
10 failure to appear, the court is of the view that this matter should  
11 be dismissed for plaintiff's apparent inability to prosecute.

12 Accordingly, this court ORDERS that counsel for plaintiff is  
13 ORDERED to SHOW CAUSE in writing not later than ten (10) days from  
14 the effective date of this order why the case should not be  
15 dismissed for failure to prosecute. See Local Rule 11-110; Fed.  
16 R. Civ. P. 41(b). If plaintiff is willing to pay sanctions in the  
17 amount of Three Hundred dollars for his failure to file a status  
18 report and failure to appear at the hearing, as well as being taxed  
19 the cost of defendant's counsel's appearance at the August 1, 2005  
20 hearing, the court will consider that as an alternative, if  
21 requested in plaintiff's response to the Order to Show Cause.

22 IT IS SO ORDERED.

23 DATED: August 4, 2005.

24 /s/Lawrence K. Karlton  
25 LAWRENCE K. KARLTON  
26 SENIOR JUDGE  
UNITED STATES DISTRICT COURT